



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



STEVEN E. CHESTER
DIRECTOR

December 2, 2004

EPA Region 5 Records Ctr.



235034

Ms. Shari Kolak
United States Environmental Protection Agency
Region 5, Superfund Division
77 West Jackson Boulevard (SR-6J)
Chicago, Illinois 60604

Dear Ms. Kolak:

SUBJECT: Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site
Willow Boulevard/A-Site Operable Unit Remedial Investigation/Focused
Feasibility Study

By way of this correspondence, the Michigan Department of Environmental Quality (MDEQ) is pleased to formally submit the final Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site; Willow Boulevard/A-Site Operable Unit Remedial Investigation/Focused Feasibility Study (Report). An electronic version of this final Report is contained on two compact disks in Word (one is a 'show changes' version and the other is the final with changes incorporated) within this transmittal which shows the revisions that have been made since an earlier draft.

As you know, in a letter dated January 15, 2004, Blasland, Bouck & Lee, Inc. (BBL) filed a dispute concerning an earlier draft of the Report on behalf of the Kalamazoo River Study Group (KRSG) in accordance with an Administrative Order by Consent executed between the KRSG and the MDEQ. That draft had not been formally submitted to the United States Environmental Protection Agency (U.S. EPA), yet an attempt was made to resolve the dispute without making actual changes to the Report itself. Upon review by MDEQ management, it was felt there was merit in the dispute that had been raised, requiring full consideration by other program elements within the MDEQ. You were originally notified of that effort in an e-mail dated March 18, 2004. After a number of internal meetings, the MDEQ proposed its resolution to the dispute in an e-mail dated June 29, 2004. Subsequent to that e-mail, a conference call was held July 20, 2004, between the KRSG and the MDEQ that also included representatives from the U.S. EPA to address any questions resulting from the dispute resolution. In the months since that conference call, Mr. Keith Krawczyk from the MDEQ has been working and coordinating our efforts to incorporate the effect of that resolution into the enclosed Report.

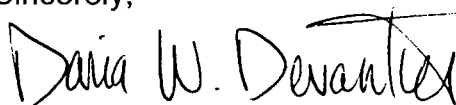
Due to the importance of the resolution itself, given it is the result of cross-program and division effort within the MDEQ, and due to the potential utility of this resolution for the Kalamazoo River Superfund Site as a whole, the resolution e-mail has been made an

enclosure with this transmittal letter for permanent placement in the U.S. EPA's administrative record.

Therefore, in accordance with the Site-Specific Amendment to the Enforcement Agreement for the State-Enforcement-Lead Sites in Michigan for the Allied Paper Inc./Portage Creek/Kalamazoo River Superfund Site, executed on February 15, 2002 by the U.S. EPA, paragraph II.A.2., the MDEQ has met its obligation with respect to the Willow Boulevard/A-Site with this transmittal, and the U.S. EPA assumes the lead with the MDEQ in a support role for this operable unit.

Thank you for your patience as the MDEQ worked to resolve the dispute concerning this Report. Please let me know if there is anything the MDEQ can do to assist you in advising the public of this Report. Keith and I also want to work with you on how best to get this Report out to the identified public repositories. Please contact me at the number below, or Mr. Keith Krawczyk at 517-335-4103, if you have any questions in regard to this transmittal.

Sincerely,



Daria W. Devantier
Chief, Specialized Sampling Unit
Superfund Section
Remediation and Redevelopment Division
517-373-8436

Enclosures: Report, 6/29/04 e-mail, and compact disks

cc/enc: Mr. Mark Brown, BBL
Mr. Todd King, Camp Dresser & McKee
Mr. Paul Bucholtz/Mr. Keith Krawczyk, MDEQ/File I-1
cc/e-mail enc: Ms. Eileen Furey, U.S. EPA
Mr. Lawrence Schmitt, U.S. EPA
Mr. Andrew W. Hogarth, MDEQ
Ms. Elizabeth M. Browne, MDEQ
Mr. James Heinzman/Mr. John Bradley, MDEQ

From: Daria W. Devantier
To: i:mpb@bbl-inc.com; i:pamontne@GAPAC.com; i:pnm@bbl-inc.com
CC: Andrew Hogarth; Elizabeth Browne; i:furey.eileen@epa.gov;
i:kolak.shari@epa.gov; i:prendiville.timothy@epa.gov; i:schmitt.lawrence@epa.gov;
i:short.thomas@epa.gov; James Heinzman; Jim Sygo
Date: Tuesday, June 29, 2004 8:58 AM
Subject: Dispute Resolution for Willow Blvd/A-site Operable Unit

The Michigan Department of Environmental Quality's (MDEQ) original draft Willow Blvd/A-site Remedial Investigation/Focused Feasibility Study (RI/FFS) directed that the area where in-stream clean-up criteria would apply at the Willow Blvd/A-site Operable Unit was within the 100 year flood plain. Upon consideration of the dispute raised by Blasland, Bouck & Lee, Inc. (BBL) in a letter dated January 15, 2004, the MDEQ, as a result of cross-divisional and program review, has reconsidered its position and seeks to resolve the dispute in the following manner.

Sediment clean-up criteria will apply to the sediments within waters of the state and all contiguous regulated wetlands. Clean-up criteria other than sediment clean-up criteria will be considered for areas within the regulated wetlands only if appropriate erosion control measures and subsequent additional response activities are employed and maintained to be protective of all relevant exposure pathways.

The above resolution applies sediment clean-up criteria to all areas contained within the Willow Blvd/A-site Operable Unit, and by extension the whole Kalamazoo River Superfund Site, that constitute waters of the state pursuant to Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). The above paragraph is not to be utilized to first define what constitutes a facility or site on the National Priorities List, but rather a paragraph that helps in deciding where to apply sediment vs upland clean-up criteria. The use of the word contiguous is not intended to mean the definition of that word as contained within Part 303, Wetlands Protection, of the NREPA. Any remedy in waters of the state must provide protection for human health and the environment, regardless of contact duration with contaminants of concern. By seeking to apply sediment clean-up criteria to only those areas protected as waters of the state, the arbitrary nature of the 100 year flood plain definition is eliminated.

The option to allow the use of clean-up criteria other than sediment criteria in certain wetlands is an attempt to prevent the destruction of unique wetland areas, if at all possible. Considerations such as elevation, connection to the

river, and a scientifically valid indicator of time inundated will need to be evaluated to determine if this approach is possible in those areas. Updated wetland determinations will be necessary as each segment, operable unit or reach of the river is remediated. Obtaining updated wetland determinations from a consistent source will be necessary and the MDEQ recommends reliance on the Wetland Determination process offered by the Geological and Land Management Division, MDEQ. It is assumed that wetland determinations may be directly impacted by a dams-in vs dams-out scenario for the river system as a whole. To the extent remediation must occur in areas protected as regulated wetlands, re-establishment and/or mitigation of wetlands will be a necessary part of any remedial design and implementation for the river system as a whole, and at each of the operable units. However, to the extent dam removal would redefine and reduce what constitutes regulated wetlands, natural forces themselves will create areas where clean-up criteria other than sediment clean-up criteria can be applied, and those wetlands which disappear due to dam removal would not have to be mitigated since they were a result of man-altering activities. A river system must be allowed time to re-establish itself after such a significant change, but this recovery time is usually in terms of months, not years.

Select portions of the RI/FFS are being rewritten to incorporate the resolution language above, and more directly, the impact of the resolution. In addition, those select portions are also being rewritten to better direct how clean-up criteria would be utilized. Clean-up criteria "ranges" have been eliminated to communicate clear remediation expectations to aid those preparing any remedial designs along this river system. Specifically, the MDEQ has selected the No Observed Adverse Effect concentration consistent with the U.S. Environmental Protection Agency's "Ecological Risk Assessment Guidance for Superfund..." dated June 5, 1997 (as directed by the *Issuance of Final Guidance: Ecological Risk Assessment and Risk Management Principles for Superfund Sites* dated October 7, 1999). While minor changes have been made throughout the RI/FFS to be consistent with the resolution, in large part, re-crafted language appears in Sections 4, 6 and 7.

It is also the MDEQ's intent that the above resolution gets utilized at any of the operable units along the Kalamazoo River Superfund Site (or any other site or facility where sediments are impacted) where remedial design has yet to be implemented. Specifically, work at the King Highway Landfill Operable Unit has already been implemented and therefore, the resolution discussed herein would not be applicable (EXCEPT to the extent that the King Highway Landfill Operable Unit contains portions of the river itself, yet to be addressed). However, like the

Willow Blvd/A-site Operable Unit, remediation activities at the 12th Street Landfill Operable Unit, the Allied Paper Operable Unit and the overall Kalamazoo River Operable Unit have not yet been implemented and should, therefore, take advantage of the resolution outlined above.

A future challenge for the Kalamazoo River Study Group, federal and state agencies is the selection of clean-up criteria for a Superfund site that encompasses such a large area. Selecting clean-up criteria must recognize "uses" this river system realizes. For instance, significant portions of this river system have been established and maintained to encourage wildlife habitation. This reality dictates the selection of applicable upland criteria protective of ecological receptors. While every attempt will be made to assure the RI/FFS is consistent with this philosophy, all parties should seek to develop remedial designs recognizing this philosophy regardless of errors that may escape detection in RI/FFS tables, texts or graphs.

From here, the MDEQ proposes the next steps. A conference room has been scheduled for Tuesday, July 20, 2004, at 1:30 p.m. to address questions from BBL and members of the Kalamazoo River Study Group. The meeting has been scheduled in the Iverson Conference Room, 3rd Floor of the South Tower in Constitution Hall in Lansing, Michigan. If a conference call would be easier, the telephone number in the Iverson Conference Room is 517-373-4965. Please contact me at the number below to confirm that this date and time is acceptable. Pending the outcome of that call or meeting, it is the MDEQ's intent to formally submit a final Willow Blvd/A-site RI/FFS to the U.S. Environmental Protection Agency.

Thanks to everyone for your patience as MDEQ worked internally to research and resolve this dispute.

Daria W. Devantier
Specialized Sampling Unit Chief, Superfund Section
Remediation and Redevelopment Division
Department of Environmental Quality
517-373-8436
devantid@michigan.gov